

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

Roy E. Johnson	:	
Petitioner,	:	
	:	
v.	:	File No. 2:06-CV-81
	:	
Robert Hofmann,	:	
Commissioner, Vermont	:	
Department of Corrections,	:	
Respondent.	:	

ORDER

The Report and Recommendation of the United States Magistrate Judge was filed November 14, 2006. After careful review of the file and the Magistrate Judge's Report and Recommendation, no objections having been filed by any party, this Court ADOPTS the Magistrate Judge's recommendations in full for the reasons stated in the Report.

The respondent's motion to dismiss (Paper 6) is **GRANTED**, and petitioner's motion for appointment of counsel (Paper 7) is **DENIED** as moot, and Johnson's § 2254 petition is **DISMISSED**.

Pursuant to Fed. R. App. P. 22(b), a certificate of appealability is DENIED because the petitioner has failed to make a substantial showing of denial of a federal right. Furthermore, the petitioner's grounds for relief do not present issues which are debatable among jurists of reasons, which could have been resolved differently, or which deserve further proceedings. See e.g., Flieger v. Delo, 16 F.3rd 878, 882-83

(8th Cir.) cert. denied, 513 U.S. 946 (1994); Sawyer v. Collins, 986 F.2d 1493, 1497 (5th cir.), cert. denied, 508 U.S. 933 (1993).

Furthermore, it is certified that any appeal of this matter would not be taken in good faith, pursuant to 28 U.S.C. § 1915(a)(3).

THIS CASE IS CLOSED.

Dated at Burlington, in the District of Vermont, this 1st day of December, 2006.

/s/ William K. Sessions III
William K. Sessions III
U. S. District Judge